

May 9, 2019

Ms. Stacey McArthur
D. S. Thaler & Associates, LLC
7115 Ambassador Road
Baltimore, MD 21244

Re: Red Maple Place
Forest Buffer Variance
Tracking #05-18-2875

Dear Ms. McArthur:

A request for a variance from the Baltimore County Code, Article 33, Title 3, a Law for the Protection of Water Quality, Streams, Wetlands and Floodplains (i.e. Forest Buffer Law), was initially received by this Department of Environmental Protection and Sustainability (EPS) on December 11, 2018. If granted, the variance would allow the applicant to permanently impact 12,115 square feet (sf) of area that would be Forest Buffer Easement (FBE) and reduce the principal building setback to that FBE in order to construct an apartment building and associated infrastructure on the subject property. The variance would also allow a 2,734-square foot gravel driveway to remain in area that will be FBE for continued use by an adjacent property owner.

This application was disapproved as submitted on December 31, 2018, as no alternative designs for the apartment building were considered to minimize impacts to the forested FBE. On January 30, 2019, an addendum to the variance application was submitted including additional information as to the zoning restrictions as well as topographical and other site design constraints that preclude building a practically-sized apartment building entirely outside of the FBE. However, in reviewing that addendum, no mention was made as to the height restrictions and whether or not the apartment building could be heightened to allow its footprint in FBE to be smaller. On April 1, 2019, EIR received a subsequent addendum analyzing two additional alternatives related to the building height.

The first new alternative increases the building height from four stories to seven stories, nearly double the height of the building in the applicant's preferred alternative. This alternative allows the apartment building to be moved further from the FBE but does not avoid impacts to this buffer. This alternative was rejected because nearly doubling the height of the apartment building creates an undesirable condition for the neighborhood, as well as untenable costs for the applicant. Although the RAE-2 zoning requirements allow buildings up to 15 stories, none of the neighboring buildings are taller than four stories. The client's preferred four-story alternative is more consistent with the surrounding neighborhood. In addition, high-rise apartment buildings are more expensive to build, and project funding, which is tied to State and local funding resources, is limited. These funding resources simply would not accommodate the means and

methods necessary for the high-rise layout. The second new alternative presented explores a five-story building, more consistent with the surrounding neighborhood yet increases the building setback to the buffer. However, impacts to the buffer itself remain the same, and the increased building scale adds to the overall cost. As such, this alternative was also rejected.

This Department has reviewed your request and has determined that a practical difficulty exists in fully complying with Section 33-3-111. Furthermore, we find that impacts to water quality would be adequately minimized under the preferred design through the use of retaining walls to minimize the building's footprint, onsite protection of the Forest Buffer Easement, and onsite buffer planting as mitigation for unavoidable impacts. It should be noted that no direct impact to streams or wetlands is proposed.

Therefore, we will grant this variance in accordance with Section 33-3-106 of the Baltimore County Code with the following conditions:

1. The Forest Buffer Easement limit shall be a minimum 75 feet from the stream and 25 feet from the associated non-tidal wetlands.
2. Mitigation for the 11,996 sf of forested FBE impacts resulting from the proposed project shall be addressed at a 2:1 ratio. Mitigation for the 2,853 sf of impact to unforested forest buffer shall be addressed at a 1:1 ratio for a total mitigation requirement of 26,845 sf. The applicant proposes planting the remaining unforested area of the FBE, totaling 21,363 sf, as partial mitigation. The remaining 5,482 sf of required mitigation shall be addressed through the purchase of credit in an EPS-approved forest buffer mitigation bank. The enclosed bank authorization letter shall be signed by the bank operator to document purchase of the credit and returned to EPS prior to building permit approval.
3. The 21,363 sf of onsite buffer planting shall consist of native deciduous tree stock a minimum 5 to 6-foot high container-grown and adequately sheltered. Planting density shall be a minimum 200 trees per acre.
4. Surveyed limits of the Forest Buffer Easement shall be clearly marked onsite at 50-foot intervals and significant turning points with permanent "Forest Buffer-Do Not Disturb" signs to facilitate identification of buffer limits by all involved parties. These signs, which are available from private sign contractors, shall be installed prior to grading permit approval. A list of sign suppliers is enclosed.
5. A final Forest Buffer Protection Plan (FBPP) detailing the buffer planting, sign installation, mitigation calculations, and a note stating how the mitigation will be addressed must be approved by EPS staff prior to grading and sediment control plan approval. An itemized cost estimate for implementation of the FBPP must be included. The FBPP mylar must be approved prior to grading permit approval.

Ms. Stacey McArthur
Red Maple Place
Forest Buffer Variance
May 9, 2019
Page 3

6. A security equal to 110% of the EIR-approved cost estimate for implementing the FBPP shall be posted with the Department of Environmental Protection and Sustainability via an Environmental Agreement prior to any permit approval.
7. The Forest Buffer and Forest Conservation Easement and its Declaration of Protective Covenants shall be recorded in Baltimore County Land Records via either right of way plat or record plat prior to any reduction of the FBPP security.
8. The grading and sediment control plan must be reviewed and approved by EPS and reflect the conditions of this variance.
9. The following note shall appear on all subsequent plans and plats submitted for this project:

“A variance was granted on May 9, 2019 by the Baltimore County Department of Environmental Protection and Sustainability from the Law for the Protection of Water Quality, Streams, Wetlands, and Floodplains to allow impact to 12,115 square feet of Forest Buffer Easement in order to develop the site with a four-story apartment building and associated infrastructure as well as allow continued use of 2,734 square feet of forest buffer as a driveway by an adjacent property owner. The Forest Buffer Easement and its setback shown hereon reflect the fact that this variance was granted. Conditions were placed on this variance to reduce impacts to water quality including planting 21,363 square feet of unforested Forest Buffer Easement and purchasing 5,482 square feet of credit in a forest buffer mitigation bank.”

It is the intent of this Department to approve this variance subject to the above conditions. Any changes to site layout will require submittal of revised plans and a new variance request.

Please have the party responsible for meeting the conditions of this variance sign the statement on the following page and return a signed copy of this letter to this Department within 21 calendar days. Failure to return a signed copy may render this approval null and void, or may result in delays in the processing of plans for this project.

If you have any questions regarding this correspondence, please contact Ms. Libby Errickson at (410) 887-3980.

Sincerely yours,

David V. Lykens
Director

Ms. Stacey McArthur
Red Maple Place
Forest Buffer Variance
May 9, 2019
Page 4

DVL/lbe

Enclosures (2)

c. Ms. Diane Clyde, Red Maple Place Limited Partnership

I/we agree to the above conditions to bring my/our property into compliance with Article 33,
Title 3, Protection of Water Quality, Streams, Wetlands and Floodplains.

Owner's/Developer's Signature Date

Signature Date

Printed Name

Printed Name